



Reprinted - Author Correction
February 23, 2005

HOUSE BILL No. 1848

DIGEST OF HB 1848 (Updated February 21, 2005 10:16 pm - DI 101)

Citations Affected: IC 20-5; IC 36-1.

Synopsis: Contracts for public water and wastewater projects. Includes water and wastewater, in addition to energy, under the guaranteed savings contracts and utility efficiency programs that may be used by local units of government to reduce consumption costs or to provide billable revenue increases.

Effective: July 1, 2005.

Friend

January 25, 2005, read first time and referred to Committee on Rules and Legislative Procedures.
February 14, 2005, reassigned to Committee on Environmental Affairs.
February 17, 2005, amended, reported — Do Pass.
February 21, 2005, read second time, amended, ordered engrossed.
February 22, 2005, engrossed.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1848

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-5-2-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 2. In carrying out the school
3 purposes of each school corporation, its governing body acting on its
4 behalf ~~shall~~ have the following specific powers:
- 5 (1) In the name of the school corporation, to sue and be sued and
6 to enter into contracts in matters permitted by applicable law.
 - 7 (2) To take charge of, manage, and conduct the educational affairs
8 of the school corporation and to establish, locate, and provide the
9 necessary schools, school libraries, other libraries where
10 permitted by law, other buildings, facilities, property, and
11 equipment therefor.
 - 12 (2.5) To appropriate from the general fund an amount, not to
13 exceed the greater of three thousand dollars (\$3,000) per budget
14 year or one dollar (\$1) per pupil, not to exceed twelve thousand
15 five hundred dollars (\$12,500), based upon the school
16 corporation's previous year's average daily membership (as
17 defined in IC 21-3-1.6-1.1) for the purpose of promoting the best

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interests of the school corporation by:
(A) the purchase of meals, decorations, memorabilia, or awards;
(B) provision for expenses incurred in interviewing job applicants; or
(C) developing relations with other governmental units.
(3) To acquire, construct, erect, maintain, hold, and to contract for such construction, erection, or maintenance of such real estate, real estate improvements, or any interest in either, as the governing body deems necessary for school purposes, including but not limited to buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing of school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchases money contracts providing for a retention of a security interest by seller until payment is made or by notes where such contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To repair, remodel, remove, or demolish any such real estate, real estate improvements, or interest in either, as the governing body deems necessary for school purposes, and to contract therefor. To provide for ~~energy~~ conservation measures through utility ~~energy~~ efficiency programs or under a guaranteed ~~energy~~ savings contract as described in IC 36-1-12.5.
(4) To acquire such personal property or any interest therein as the governing body deems necessary for school purposes, including but not limited to buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by outright purchase for cash, or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where such contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish such personal property. All purchases and contracts delineated under the powers given under subdivision (3) and this subdivision ~~shall be~~ **are**

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1 subject solely to applicable law relating to purchases and
 2 contracting by municipal corporations in general and to the
 3 supervisory control of agencies of the state as provided in section
 4 3 of this chapter.

5 (5) To sell or exchange any of such real or personal property or
 6 interest therein, which in the opinion of the governing body is not
 7 necessary for school purposes, in accordance with IC 20-5-5, to
 8 demolish or otherwise dispose of such property if, in the opinion
 9 of the governing body, it is not necessary for school purposes and
 10 is worthless, and to pay the expenses for such demolition or
 11 disposition.

12 (6) To lease any school property for a rental which the governing
 13 body deems reasonable or to permit the free use of school
 14 property for:

15 (A) civic or public purposes; or
 16 (B) the operation of a school age child care program for
 17 children aged five (5) through fourteen (14) years that operates
 18 before or after the school day, or both, and during periods
 19 when school is not in session;

20 if the property is not needed for school purposes. Under this
 21 subdivision, the governing body may enter into a long term lease
 22 with a nonprofit corporation, community service organization, or
 23 other governmental entity, if the corporation, organization, or
 24 other governmental entity will use the property to be leased for
 25 civic or public purposes or for a school age child care program.
 26 However, if the property subject to a long term lease is being paid
 27 for from money in the school corporation's debt service fund, then
 28 all proceeds from the long term lease ~~shall be~~ **are** deposited in
 29 that school corporation's debt service fund so long as the property
 30 has not been paid for. The governing body may, at its option, use
 31 the procedure specified in IC 36-1-11-10 in leasing property
 32 under this subdivision.

33 (7) To employ, contract for, and discharge superintendents,
 34 supervisors, principals, teachers, librarians, athletic coaches
 35 (whether or not they are otherwise employed by the school
 36 corporation and whether or not they are licensed under
 37 IC 20-6.1-3), business managers, superintendents of buildings and
 38 grounds, janitors, engineers, architects, physicians, dentists,
 39 nurses, accountants, teacher aides performing noninstructional
 40 duties, educational and other professional consultants, data
 41 processing and computer service for school purposes, including
 42 but not limited to the making of schedules, the keeping and

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1 analyzing of grades and other student data, the keeping and
 2 preparing of warrants, payroll, and similar data where approved
 3 by the state board of accounts as provided below, and such other
 4 personnel or services, all as the governing body considers
 5 necessary for school purposes. To fix and pay the salaries and
 6 compensation of such persons and such services. To classify such
 7 persons or services and to adopt schedules of salaries or
 8 compensation. To determine the number of such persons or the
 9 amount of services thus employed or contracted for. To determine
 10 the nature and extent of their duties. The compensation, terms of
 11 employment, and discharge of teachers ~~shall, however, be~~ **are**
 12 subject to and governed by the laws relating to employment,
 13 contracting, compensation, and discharge of teachers. The
 14 compensation, terms of employment, and discharge of bus drivers
 15 ~~shall be~~ **are** subject to and ~~shall be~~ **are** governed by any laws
 16 relating to employment, contracting, compensation, and discharge
 17 of bus drivers. The forms and procedures relating to the use of
 18 computer and data processing equipment in handling the financial
 19 affairs of such school corporation shall be submitted to the state
 20 board of accounts for approval to the end that such services ~~shall~~
 21 ~~be~~ **are** used by the school corporation when the governing body
 22 determines that it is in the best interests of the school corporation
 23 while at the same time providing reasonable accountability for the
 24 funds expended.

25 (8) Notwithstanding the appropriation limitation in subdivision
 26 (2.5), when the governing body by resolution deems a trip by an
 27 employee of the school corporation or by a member of the
 28 governing body to be in the interest of the school corporation,
 29 including but not limited to attending meetings, conferences, or
 30 examining equipment, buildings, and installation in other areas,
 31 to permit such employee to be absent in connection with such trip
 32 without any loss in pay and to refund to such employee or to such
 33 member ~~his~~ **the employee's or member's** reasonable hotel and
 34 board bills and necessary transportation expenses. To pay
 35 teaching personnel for time spent in sponsoring and working with
 36 school related trips or activities.

37 (9) To transport children to and from school, when in the opinion
 38 of the governing body such transportation is necessary, including
 39 but not limited to considerations for the safety of such children
 40 and without regard to the distance they live from the school, such
 41 transportation to be otherwise in accordance with the laws
 42 applicable thereto.

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- 1 (10) To provide a lunch program for a part or all of the students
- 2 attending the schools of the school corporation, including but not
- 3 limited to the establishment of kitchens, kitchen facilities, kitchen
- 4 equipment, lunch rooms, the hiring of the necessary personnel to
- 5 operate such program, and the purchase of any material and
- 6 supplies therefor, charging students for the operational costs of
- 7 such lunch program, fixing the price per meal or per food item. To
- 8 operate such lunch program as an extracurricular activity, subject
- 9 to the supervision of the governing body. To participate in any
- 10 surplus commodity or lunch aid program.
- 11 (11) To purchase textbooks, to furnish them without cost or to
- 12 rent them to students, to participate in any textbook aid program,
- 13 all in accordance with applicable law.
- 14 (12) To accept students transferred from other school corporations
- 15 and to transfer students to other school corporations in accordance
- 16 with applicable law.
- 17 (13) To levy taxes, to make budgets, to appropriate funds, and to
- 18 disburse the money of the school corporation in accordance with
- 19 the laws applicable thereto. To borrow money against current tax
- 20 collections and otherwise to borrow money, in accordance with
- 21 IC 20-5-4.
- 22 (14) To purchase insurance or to establish and maintain a
- 23 program of self-insurance relating to the liability of the school
- 24 corporation or its employees in connection with motor vehicles or
- 25 property and for any additional coverage to the extent permitted
- 26 and in accordance with IC 34-13-3-20. To purchase additional
- 27 insurance or to establish and maintain a program of self-insurance
- 28 protecting the school corporation and members of the governing
- 29 body, employees, contractors, or agents of the school corporation
- 30 from any liability, risk, accident, or loss related to any school
- 31 property, school contract, school or school related activity,
- 32 including but not limited to the purchase of insurance or the
- 33 establishment and maintenance of a self-insurance program
- 34 protecting such persons against false imprisonment, false arrest,
- 35 libel, or slander for acts committed in the course of their
- 36 employment, protecting the school corporation for fire and
- 37 extended coverage and other casualty risks to the extent of
- 38 replacement cost, loss of use, and other insurable risks relating
- 39 to any property owned, leased, or held by the school corporation. To:
- 40 (A) participate in a state employee health plan under
- 41 IC 5-10-8-6.6;
- 42 (B) purchase insurance; or

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1 (C) establish and maintain a program of self-insurance;
 2 to benefit school corporation employees, which may include
 3 accident, sickness, health, or dental coverage, provided that any
 4 plan of self-insurance shall include an aggregate stop-loss
 5 provision.
 6 (15) To make all applications, to enter into all contracts, and to
 7 sign all documents necessary for the receipt of aid, money, or
 8 property from the state government, the federal government, or
 9 from any other source.
 10 (16) To defend any member of the governing body or any
 11 employee of the school corporation in any suit arising out of the
 12 performance of ~~his~~ **the member's or employee's** duties for or
 13 employment with, the school corporation, provided the governing
 14 body by resolution determined that such action was taken in good
 15 faith. To save any such member or employee harmless from any
 16 liability, cost, or damage in connection therewith, including but
 17 not limited to the payment of any legal fees, except where such
 18 liability, cost, or damage is predicated on or arises out of the bad
 19 faith of such member or employee, or is a claim or judgment
 20 based on ~~his~~ **the member's or employee's** malfeasance in office
 21 or employment.
 22 (17) To prepare, make, enforce, amend, or repeal rules,
 23 regulations, and procedures for the government and management
 24 of the schools, property, facilities, and activities of the school
 25 corporation, its agents, employees, and pupils and for the
 26 operation of its governing body, which rules, regulations, and
 27 procedures may be designated by any appropriate title such as
 28 "policy handbook", "bylaws", or "rules and regulations".
 29 (18) To ratify and approve any action taken by any member of the
 30 governing body, any officer of the governing body, or by any
 31 employee of the school corporation after such action is taken, if
 32 such action could have been approved in advance, and in
 33 connection therewith to pay any expense or compensation
 34 permitted under IC 20-5-1 through IC 20-5-6 or any other law.
 35 (19) To exercise any other power and make any expenditure in
 36 carrying out its general powers and purposes provided in this
 37 chapter or in carrying out the powers delineated in this section
 38 which is reasonable from a business or educational standpoint in
 39 carrying out school purposes of the school corporation, including
 40 but not limited to the acquisition of property or the employment
 41 or contracting for services, even though such power or
 42 expenditure ~~shall not be~~ is specifically set out herein. The specific

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1 powers set out in this section shall not be construed to limit the
 2 general grant of powers provided in this chapter except where a
 3 limitation is set out in IC 20-5-1 through IC 20-5-6 by specific
 4 language or by reference to other law.

5 SECTION 2. IC 36-1-12-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as
 7 provided in this section, this chapter applies to all public work
 8 performed or contracted for by:

- 9 (1) political subdivisions; and
 10 (2) their agencies;

11 regardless of whether it is performed on property owned or leased by
 12 the political subdivision or agency.

13 (b) This chapter does not apply to an officer or agent who, on behalf
 14 of a municipal utility, maintains, extends, and installs services of the
 15 utility if the necessary work is done by the employees of the utility.

16 (c) This chapter does not apply to hospitals organized or operated
 17 under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public
 18 work is financed in whole or in part with cumulative building fund
 19 revenue.

20 (d) This chapter does not apply to tax exempt Indiana nonprofit
 21 corporations leasing and operating a city market owned by a political
 22 subdivision.

23 (e) As an alternative to this chapter, the governing body of a school
 24 corporation may participate in a utility ~~energy~~ efficiency program or
 25 may enter into a guaranteed ~~energy~~ savings contract as permitted under
 26 IC 36-1-12.5.

27 (f) This chapter does not apply to a person that has entered into an
 28 operating agreement with a political subdivision or an agency of a
 29 political subdivision under IC 5-23.

30 SECTION 3. IC 36-1-12.5-0.7 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.7. As used in this
 32 chapter, "causally connected work" means work that is required to
 33 properly implement ~~an energy~~ a conservation measure.

34 SECTION 4. IC 36-1-12.5-1 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
 36 chapter "~~energy~~ "conservation measure":

37 (1) means:

- 38 (A) a school facility alteration; ~~or~~
 39 (B) an alteration of a structure (as defined in IC 36-1-10-2 ~~or~~
 40 ~~as referred to in IC 36-1-12-2) or system;~~
 41 (C) a training program; ~~or~~
 42 (D) a technology upgrade;

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1 designed to **provide billable revenue increases or** reduce energy
 2 **or water** consumption costs, **wastewater costs**, or other
 3 operating costs; ~~including and~~

4 **(2) includes** the following:

5 ~~(1)~~ **(A)** Providing insulation of the school facility or structure
 6 and systems ~~within in~~ the school facility or structure.

7 ~~(2)~~ **(B)** Installing or providing for window and door systems,
 8 including:

9 ~~(A)~~ **(i)** storm windows and storm doors;

10 ~~(B)~~ **(ii)** caulking or weatherstripping;

11 ~~(C)~~ **(iii)** multi-glazed windows and doors;

12 ~~(D)~~ **(iv)** heat absorbing or heat reflective glazed and coated
 13 windows and doors;

14 ~~(E)~~ **(v)** additional glazing;

15 ~~(F)~~ **(vi)** the reduction in glass area; and

16 ~~(G)~~ **(vii)** other modifications that reduce energy
 17 consumption.

18 ~~(3)~~ **(C)** Installing automatic energy control systems.

19 ~~(4)~~ **(D)** Modifying or replacing heating, ventilating, or air
 20 conditioning systems.

21 ~~(5)~~ **(E)** Unless an increase in illumination is necessary to
 22 conform to Indiana laws or rules or local ordinances,
 23 modifying or replacing lighting fixtures to increase the energy
 24 efficiency of the lighting system without increasing the overall
 25 illumination of a facility or structure.

26 ~~(6)~~ **(F)** Providing for other ~~energy~~ conservation measures that
 27 **provide billable revenue increases or** reduce energy **or**
 28 **water** consumption, ~~or~~ reduce operating costs, **or reduce**
 29 **wastewater costs**, including future:

30 ~~(A)~~ **(i)** labor costs;

31 ~~(B)~~ **(ii)** costs **or revenues** for contracted services; and

32 ~~(C)~~ **(iii)** related capital expenditures.

33 **(G) Installing an energy recovery system.**

34 **(H) Installing cogeneration systems that produce:**

35 **(i) steam; or**

36 **(ii) forms of energy such as heat or electricity;**

37 **for use primarily in a building or complex of buildings.**

38 **(I) Installing water and sewer conservation measures,**
 39 **including:**

40 **(i) plumbing fixtures; and**

41 **(ii) infrastructure.**

42 **(J) Installing equipment upgrades that improve accuracy**

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1 **of billable revenue generating systems.**
 2 **(K) Installing automated, electronic, or remotely**
 3 **controlled systems or measures that reduce direct**
 4 **personnel costs.**

5 SECTION 5. IC 36-1-12.5-1.5 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. As used in this
 7 chapter, "governing body" means the following:

- 8 (1) With respect to school corporations, the governing body (as
 9 defined in IC 20-10.1-1-5).
- 10 (2) With respect to a public library, the library board (as defined
 11 in IC 20-14-1-2).
- 12 (3) With respect to a library described in IC 20-14-7-6, the
 13 trustees of the library.
- 14 (4) With respect to ~~other political subdivisions,~~ **units**, the
 15 legislative body (as defined in IC 36-1-2-9).
- 16 **(5) With respect to other political subdivisions, the board or**
 17 **officer that has the power to award contracts.**

18 SECTION 6. IC 36-1-12.5-2 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this
 20 chapter, "guaranteed ~~energy~~ savings contract" refers to a contract
 21 entered into under this chapter, in which a qualified provider enters
 22 into an agreement with the governing body to:

- 23 (1) evaluate and recommend to the governing ~~body~~ **energy body's**
 24 conservation measures; and
- 25 (2) provide for the implementation of at least one (1) ~~energy~~
 26 conservation measure.

27 SECTION 7. IC 36-1-12.5-3 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As used in this
 29 chapter, "qualified provider" means the following:

- 30 (1) Before July 1, 1999, the term means a person that satisfies
 31 both of the following:
 32 (A) The person is experienced in the design, implementation,
 33 and installation of energy conservation measures.
 34 (B) The person submits to the school corporation or political
 35 subdivision a performance bond to ensure the qualified
 36 provider's faithful performance of the qualified provider's
 37 obligations over the term of the guaranteed energy savings
 38 contract.
- 39 (2) After June 30, 1999, the term means a person that satisfies all
 40 of the following:
 41 (A) **Subject to subdivision (3)**, the person is experienced in
 42 the design, implementation, and installation of energy

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conservation measures.

(B) The person is certified and meets the requirements of IC 4-13.6-4. The person's response to the request for proposals must include a copy of the person's certificate of qualification issued under IC 4-13.6-4.

(C) **Subject to subdivision (3)**, the person provides energy conservation engineering services by a professional engineer licensed under IC 25-31 who is under the person's direct employment and supervision. The person's response to the request for proposals must include the license number of each professional engineer employed by the person to satisfy the requirement of this clause.

(D) The person provides:

- (i) monitoring for the facility performance guarantee; and
- (ii) service personnel under the person's direct employment and supervision;

for the duration of the contract's guarantee.

(E) The person performs at least twenty percent (20%) of the work (measured in dollars of the total contract price) with its own workforce.

(F) The person submits to the school corporation or political subdivision a performance bond to ensure the qualified provider's faithful performance of the qualified provider's obligations over the term of:

- (i) the guaranteed energy savings contract; **or**
- (ii) **the guaranteed savings contract.**

(3) With respect to conservation measures for which a contract is executed after June 30, 2005, the term includes a person that satisfies the following:

- (A) The person is experienced in the design, implementation, and installation of conservation measures.**
- (B) The person provides engineering services with respect to conservation measures by a professional engineer licensed under IC 25-31 who is under the person's direct employment and supervision. The person's response to the request for proposals must include the license number of each professional engineer employed by the person to satisfy the requirement of this clause.**

(b) For purposes of a guaranteed energy savings contract entered into before July 1, 1999, a person who was a qualified provider under subsection (a)(1) at the time the contract was entered into remains a qualified provider for that contract after June 30, 1999. If the person

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enters into:
(1) a guaranteed energy savings contract after June 30, 1999, and before July 1, 2005, the person must satisfy the requirements of subsection (a)(2); or
(2) a guaranteed savings contract after June 30, 2005, the person must satisfy the requirements of subsections (a)(2) and (a)(3);

to be considered a qualified provider.

SECTION 8. IC 36-1-12.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. As used in this chapter, "related capital expenditures" includes capital costs that:

- (1) the governing body reasonably believes will be incurred during the contract term;
- (2) are part of or are causally connected to the energy conservation measures being implemented; and
- (3) are documented by industry engineering standards.

SECTION 9. IC 36-1-12.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. As used in this chapter, "utility energy efficiency program" refers to an energy, a water, or a wastewater efficiency program that:

- (1) includes an energy a conservation measure;
- (2) is established by a public utility (as defined in IC 8-1-8.7-2); and
- (3) is undertaken pursuant to this chapter.

SECTION 10. IC 36-1-12.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The governing body may enter into an agreement with a public utility to participate in a utility energy efficiency program or enter into a guaranteed energy savings contract with a qualified provider to increase the political subdivision's billable revenues or reduce the school corporation's or the political subdivision's energy or water consumption, wastewater usage costs, or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds:

- (1) that the amount the governing body would spend on the energy conservation measures under the contract and that are recommended in the report is not likely to exceed the amount of increased billable revenues or the amount to be saved in energy and water consumption costs, wastewater usage costs, and other operating costs over ten (10) years from the date of installation if the recommendations in the report were followed; and
- (2) in the case of a guaranteed energy savings contract, the qualified provider provides a written guarantee as described in

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1 subsection (d)(2).
 2 (b) Before entering into an agreement to participate in a utility
 3 ~~energy~~ efficiency program or a guaranteed ~~energy~~ savings contract
 4 under this section, the governing body must publish notice under
 5 subsection (c) indicating:
 6 (1) that the governing body is requesting public utilities or
 7 qualified providers to propose ~~energy~~ conservation measures
 8 through: ~~either~~
 9 (A) a utility ~~energy~~ efficiency program; or
 10 (B) a guaranteed ~~energy~~ savings contract; and
 11 (2) the date, the time, and the place where proposals must be
 12 received.
 13 (c) The notice required by subsection (b) must:
 14 (1) be published in two (2) newspapers of general circulation in
 15 the county where the school corporation or the political
 16 subdivision is located;
 17 (2) be published two (2) times with at least one (1) week between
 18 publications and with the second publication made at least thirty
 19 (30) days before the date by which proposals must be received;
 20 and
 21 (3) meet the requirements of IC 5-3-1-1.
 22 (d) An agreement to participate in a utility ~~energy~~ efficiency
 23 program or guaranteed ~~energy~~ savings contract under this section must
 24 provide that:
 25 (1) all payments, except obligations upon the termination of the
 26 agreement or contract before the agreement or contract expires,
 27 may be made to the public utility or qualified provider (whichever
 28 applies) in installments, not to exceed the lesser of ten (10) years
 29 or the average life of the ~~energy~~ conservation measures installed
 30 from the date of final installation; ~~and~~
 31 (2) in the case of the guaranteed ~~energy~~ savings contract:
 32 (A) the:
 33 (i) savings in energy **and water consumption costs,**
 34 **wastewater usage costs, and other** operating costs; **and**
 35 **(ii) increase in billable revenues;**
 36 due to the ~~energy~~ conservation measures are guaranteed to
 37 cover the costs of the payments for the measures; and
 38 (B) the qualified provider will reimburse the school
 39 corporation or political subdivision for the difference between
 40 the guaranteed savings and the actual savings; and
 41 (3) payments are subject to annual appropriation by the fiscal
 42 body of the school corporation or political subdivision and do not

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1 constitute an indebtedness of the school corporation or political
2 subdivision within the meaning of a constitutional or statutory
3 debt limitation.

4 (e) An agreement or a contract under this chapter is subject to
5 IC 5-16-7.

6 SECTION 11. IC 36-1-12.5-5.3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.3. (a) This section
8 applies only to a guaranteed energy savings contract **or a guaranteed**
9 **savings contract** entered into after June 30, 1999.

10 (b) A qualified provider may enter into a subcontract:
11 (1) with a value of more than one hundred fifty thousand dollars
12 (\$150,000); and
13 (2) for the performance of any part of a guaranteed energy savings
14 contract **or guaranteed savings contract;**
15 only if the subcontractor is certified under IC 4-13.6-4.

16 SECTION 12. IC 36-1-12.5-5.5 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. IC 6-1.1-20 does
18 not apply to an agreement to participate in:

- 19 (1) a utility ~~energy~~ efficiency program; or
 - 20 (2) a guaranteed ~~energy~~ savings contract;
- 21 entered into under this chapter.

22 SECTION 13. IC 36-1-12.5-6 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Before the public
24 utility or the qualified provider may install equipment in, make
25 modifications to, or remodel a building or complex of buildings under
26 a utility ~~energy~~ efficiency program or a guaranteed ~~energy~~ savings
27 contract, the public utility or the qualified provider (whichever applies)
28 must issue a report that includes estimates for the following:

- 29 (1) All costs attributable to the work stipulated in the agreement
30 or the contract, including the costs of design, engineering,
31 installation, maintenance, repairs, or debt service.
 - 32 (2) The amounts by which:
 - 33 (A) energy **or water** consumption;
 - 34 (B) **wastewater costs;** or
 - 35 (C) operating costs;
- 36 will be reduced.
- 37 (3) **The amounts by which billable revenues will be increased.**

38 (b) The report must also contain a listing of contractors and
39 subcontractors to be used by the public utility or the qualified provider
40 with respect to the ~~energy~~ conservation measures.

41 SECTION 14. IC 36-1-12.5-7 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. If the governing

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1 body enters into an installment payment contract for the purchase and
 2 installation of ~~energy~~ conservation measures under this chapter, the
 3 balance of the payments must be paid in installments not to exceed the
 4 lesser of ten (10) years or the average life of the ~~energy~~ conservation
 5 measure installed from the date of final installation. Payments under an
 6 installment payment contract are subject to annual appropriation by the
 7 fiscal body of the school corporation or political subdivision and do not
 8 constitute an indebtedness of the school corporation or political
 9 subdivision within the meaning of a constitutional or statutory debt
 10 limitation. **Annual revenues or savings from a guaranteed savings
 11 contract may be less than annual payments on the contract if
 12 during the length of the contract total savings and increased
 13 billable revenues occur as provided for by the contract. The
 14 financing of a guaranteed savings contract may be provided by:**

15 (1) the vendor of the guaranteed energy, water, or wastewater
 16 savings program; or

17 (2) a third-party financial institution or company.

18 SECTION 15. IC 36-1-12.5-8 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~Energy~~ Conservation
 20 measures installed under a utility ~~energy~~ efficiency program or a
 21 guaranteed ~~energy~~ savings contract must be approved by the following:

22 (1) The state department of health, office of the state fire marshal,
 23 office of the state building commissioner, and any other state
 24 agency designated by statute.

25 (2) An architect or engineer licensed under IC 25-4 or IC 25-31
 26 if the ~~energy~~ conservation measures have a cost of more than fifty
 27 thousand dollars (\$50,000).

28 SECTION 16. IC 36-1-12.5-9 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The contractor
 30 and each subcontractor engaged in installing ~~energy~~ conservation
 31 measures under a guaranteed ~~energy~~ savings contract shall keep full
 32 and accurate records indicating the names, classifications, and work
 33 performed by each worker employed by the respective contractor and
 34 subcontractor in connection with the work, together with an accurate
 35 record of the number of hours worked by each worker and the actual
 36 wages paid.

37 (b) The payroll records required to be kept under this section must
 38 be open to inspection by an authorized representative of the governing
 39 body or the department of labor.

40 SECTION 17. IC 36-1-12.5-10 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The governing body
 42 shall:

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1 (1) provide to the department of commerce not more than sixty
 2 (60) days after the date of execution of the guaranteed ~~energy~~
 3 savings contract:
 4 (A) a copy of the executed guaranteed ~~energy~~ savings contract;
 5 (B) the:
 6 (i) energy or water consumption costs;
 7 (ii) wastewater usage costs; and
 8 (iii) billable revenues, if any;
 9 before the date of execution of the guaranteed ~~energy~~ savings
 10 contract; and
 11 (C) the documentation using industry engineering standards
 12 for:
 13 (i) stipulated savings; and
 14 (ii) related capital expenditures; and
 15 (2) annually report to the department of commerce, in accordance
 16 with procedures established by the department of commerce, the
 17 savings resulting in the previous year from the guaranteed ~~energy~~
 18 savings contract or utility ~~energy~~ efficiency program.

19 SECTION 18. IC 36-1-12.5-11 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A guaranteed
 21 ~~energy~~ savings contract that includes stipulated savings must specify
 22 the methodology used to calculate the savings using industry
 23 engineering standards.

24 (b) Stipulated savings may be used for ~~energy~~ conservation
 25 measures including the following:
 26 (1) Heating.
 27 (2) Air conditioning.
 28 (3) Ventilating.
 29 (4) Lighting.
 30 (5) Roofing.
 31 (6) Windows.
 32 (7) Water conservation.
 33 (8) Fuel and power improvements.
 34 (9) Wastewater generation.
 35 (10) Billable revenue increases.
 36 ~~(8)~~ (11) Any work that is causally connected to the ~~energy~~
 37 conservation measures listed in subdivisions (1) through ~~(8)~~: (10).
 38 (c) The guaranteed ~~energy~~ savings contract shall:
 39 (1) describe stipulated savings for:
 40 (A) ~~energy~~ conservation measures; and
 41 (B) work causally connected to the ~~energy~~ conservation
 42 measures; and

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1 (2) document assumptions by industry engineering standards.
 2 SECTION 19. IC 36-1-12.5-12 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) An
 4 improvement that is not causally connected to an energy conservation
 5 measure may be included in a guaranteed energy savings contract if:
 6 (1) the total value of the improvement does not exceed fifteen
 7 percent (15%) of the total value of the guaranteed energy savings
 8 contract; and
 9 (2) either:
 10 (A) the improvement is necessary to conform to a law, a rule,
 11 or an ordinance; or
 12 (B) an analysis within the guaranteed energy savings contract
 13 demonstrates that:
 14 (i) there is an economic advantage to the political
 15 subdivision in implementing an improvement as part of the
 16 guaranteed energy savings contract; and
 17 (ii) the savings justification for the improvement is
 18 documented by industry engineering standards.
 19 (b) The information required under subsection (a) must be reported
 20 to the department of commerce.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1848, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1848 as introduced.)

WOLKINS, Chair

Committee Vote: yeas 9, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1848 be amended to read as follows:

Page 7, line 40, after "IC 36-1-12-2)" insert "**or system**".

Page 8, line 1, after "to" insert "**provide billable revenue increases or**".

Page 11, line 28, after "to" insert "**increase the political subdivision's billable revenues or**".

Page 11, line 35, after "amount" insert "**of increased billable revenues or the amount**".

Page 12, line 31, after "the" insert "":
(i)".

Page 12, line 31, after "in" delete "":

Page 12, line 32, delete "(i)".

Page 12, line 32, delete ";" and insert ",".

Page 12, line 33, delete "(ii)".

Page 12, line 33, delete ";" and insert ",".

Page 12, line 34, delete "(iii)".

Page 12, line 34, after "costs;" insert "**and**".

Page 12, between lines 34 and 35, begin a new line triple block indented and insert:

"(ii) increase in billable revenues;".

Page 13, between lines 35 and 36, begin a new line block indented and insert:

"(3) The amounts by which billable revenues will be increased."

Page 14, line 10, after "savings" insert "**and increased billable revenues**".

Page 15, line 4, after ";" delete "or".

Page 15, line 5, after ";" insert "**and**".

Page 15, between lines 5 and 6, begin a new line triple block indented and insert:

"(iii) billable revenues, if any;".

Page 15, between lines 31 and 32, begin a new line block indented and insert:

"(10) Billable revenue increases."

Page 15, line 32, delete "(10)" and insert "**(11)**".

Page 15, line 33, strike "(8)." and insert "**(9)**".

(Reference is to HB 1848 as printed February 18, 2005).

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